IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 15489 of 2007(R)

EP.361/2006 of MUNSIFF COURT, MANJERI

.....

PETITIONER:

KUNNUMPURATH JOSE, S/O.MATHEW @ MATHAI
PAYYANAD, MANJERI P.O.,
MALAPPURAM DISTRICT

BY ADV. SRI.T.K.AJITH KUMAR

RESPONDENTS:

---

1. PUTHANARI ABDURAHIMAN, S/O.MOHAMMED
CHENGARA AMSOM AND DESOM
ERNAD TALUK, MALAPPURAM DIST.

2. THE SECRETARY
MANJERI CO-OPERATIVE SOCIETY (NO.M.256)
MANJERI .P.O.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/5/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N KRISHNAN, J.

WP(C)No.15489 OF 2007 R

Dated this the 23rd May, 2007.

JUDGMENT

This writ petition is filed seeking a direction to the Munsiff, Manjeri not to proceed further in E.P.162 of 2002 till final orders in C.M.A 26/2006 pending before the District Court, Manjeri is disposed of. Learned counsel for the writ petitioner submits that he has filed a Civil Miscellaneous Application against the order passed under Order XXI Rule 95 CPC along with a delay condonation application and since the delay condonation application is still pending before the Court, he is not in a position to obtain any order from the said court. According to him it is not on account of his fault that the things are getting delayed. It is also submitted by him that the learned Munsiff has directed the property to be delivered on 24.5.2007 and if it materialises it will cause him prejudice and irreparable injury and therefore prays for a relief directing the Munsiff not to deliver the property till the C.M.A is finally disposed of.

2. Having heard the counsel at length, though I feel that the matter before the District Court has not been properly prosecuted, at the same time interest of justice

requires that an opportunity should be given to a party who has preferred an appeal and therefore if the delivery is effected on 24.5.2007 it may cause injury to the writ petitioner and therefore some directions are to be given. In the fitness of things I direct the learned Munsiff to defer the delivery of the property till 10.6.2007 and meanwhile direct the petitioner to move the District Court, Manjeri for disposal of the delay condonation application and thereafter, if situation warrants, move an application for stay of further proceedings and the District Court shall consider it if it condones the delay. If the delay condonation application is dismissed or stay is refused, the Munsiff shall direct the property to be delivered on 15.6.2007.

Writ petition is disposed of accordingly.

M.N. KRISHNAN
Judge

jj